

1 UNITED STATES DISTRICT COURT  
2 MIDDLE DISTRICT OF TENNESSEE  
3 NASHVILLE DIVISION

4 EDISON ALBERTO CARVAJAL VASQUEZ )  
5 VS ) No. 3:18-cv-0137  
6 PAOLA ANDREA GAMBA ACEVEDO )

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10 BEFORE THE HONORABLE ALETA A. TRAUGER, DISTRICT JUDGE

11 TRANSCRIPT OF PROCEEDINGS

12 (through Spanish interpreters)

13 March 27, 2018  
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2           The above-styled cause came to be heard  
3 on March 27, 2018, before the Hon. Aleta A. Trauger,  
4 District Judge, when the following proceedings were  
5 had at 9:37 a.m. to-wit:

6  
7           THE COURT: Good morning. Let's swear  
8 the interpreters.

9           (Interpreters sworn.)

10          THE COURT: All right. We are here in  
11 hopefully our last chapter of this Hague Convention  
12 case of *Edison Carvajal versus Paola Gamba*. We have  
13 Alex Fisher for the petitioner. We have Joel  
14 Sanderson for the respondent. The petitioner is on  
15 the phone; is that correct, Ms. Fisher?

16          MS. FISHER: Yes, Your Honor.

17          THE COURT: Okay.

18          MS. FISHER: To the best of my  
19 understanding right now.

20          THE COURT: Okay. Mr. Carvajal, are you  
21 there on the phone? Mr. Carvajal?

22          MR. CARVAJAL: Yes, it's me here.

23          THE COURT: Okay. And Ms. Gamba, the  
24 respondent, is here in the courtroom.

25          And we have an interpreter from the

1       respondent's lawyer's law firm interpreting for her,  
2       Jama Reinhardt.

3               So my memory is that we had additional  
4       rebuttal from the petitioner, which was going to  
5       consist only of additional testimony from  
6       Mr. Carvajal. And then we were going to have rebuttal  
7       from the respondent. Is that correct, Ms. Fisher?

8               MS. FISHER: Your Honor, I'd like to  
9       reserve the right to call Mr. Carvajal. At this time  
10      I don't know if he'll be needed.

11              THE COURT: Okay.

12              MS. FISHER: I'd like to reserve that  
13      right.

14              THE COURT: Okay. And you are going to  
15      call the petitioner -- the respondent?

16              MR. SANDERSON: I'm going to call the  
17      petitioner, and then I have one piece of evidence --

18              THE COURT: You're going to call the  
19      respondent, not the petitioner.

20              MR. SANDERSON: Yes, respondent. And  
21      then I have one piece of evidence that an attorney  
22      from Colombia, we would call him just to authenticate  
23      that piece of evidence and how that was obtained.

24              THE COURT: Okay. All right.

25              MS. FISHER: And, Your Honor, I

1 apologize. I would like to reserve the right to call  
2 potentially one more additional witness who would be  
3 Elana Vasquez, Mr. Carvajal's mother, just for a brief  
4 line of questioning.

5 THE COURT: All right. We had the  
6 petitioner's rebuttal witnesses at our last hearing.  
7 We had Ana Vasquez. We had Diana Vasquez. Then we  
8 had Mr. Carvajal. And then we had Luz Villegas. And  
9 you are saying that you do not wish to call  
10 Mr. Carvajal now during your rebuttal? Because we are  
11 still in your rebuttal.

12 MS. FISHER: Yes, Your Honor. I'd like  
13 to reserve the right to call him later if needed.

14 THE COURT: Well, we're not going to back  
15 and forth forever.

16 MS. FISHER: Yes, Your Honor.

17 THE COURT: So we are in your rebuttal  
18 now, and I will consider whether or not I will let you  
19 put him on after the rebuttal of the respondent  
20 because we cannot just continue to go back and forth  
21 and have everyone giving testimony.

22 MS. FISHER: Absolutely, Your Honor. The  
23 reason I would like to reserve his potential rebuttal  
24 testimony is because I don't know what the testimony  
25 is going to be from the attorney who might be

1     testifying in Colombia.

2                   THE COURT:   Okay.

3                   MS. FISHER:   If you would like me to go  
4     ahead and put on his mother, Elana Vasquez, I should  
5     have just three questions for her based on some  
6     testimony that came up in the transcript since the  
7     time she testified on February 21.

8                   THE COURT:   Okay.   That will be fine.

9                   MS. FISHER:   Okay.

10                  THE COURT:   But since there is new  
11     evidence that will be coming in on rebuttal from the  
12     respondent, I will allow you surrebuttal, but only on  
13     that new evidence.

14                  MS. FISHER:   Absolutely.

15                  THE COURT:   Not on whatever the  
16     respondent says.

17                  Okay.   So let's have your additional  
18     rebuttal testimony.

19                  MS. FISHER:   Yes, Your Honor.   I'd like  
20     to call Elana Vasquez.   Ms. Vasquez, if you're on the  
21     phone, if you could please go ahead and unmute.

22                  THE COURT:   Ms. Vasquez, are you on the  
23     phone?

24                  THE WITNESS:   Yes, here I am.

25                  THE COURT:   All right.   Let's swear the

1 witness.

2 **ELANA VASQUEZ**

3 called as a witness, after having been first duly  
4 sworn, testified as follows:

5 THE WITNESS: I do, and (unintelligible).

6 THE INTERPRETER: Would Your Honor like  
7 the interpreter to inquire?

8 THE COURT: Yes.

9 THE WITNESS: I do. And we are in the  
10 greatest week of love and companionship.

11 THE COURT: Ask a question, please.

12 **REBUTTAL DIRECT EXAMINATION**

13 BY MS. FISHER:

14 Q. Ms. Vasquez, did you help care of Thiago  
15 when Thiago lived in Colombia?

16 A. Yes, frequently.

17 Q. How often did you help take care of  
18 Thiago?

19 A. Every weekend.

20 THE INTERPRETER: One moment, Your Honor,  
21 the interpreter would like to inquire.

22 THE WITNESS: Every weekend.

23 BY MS. FISHER:

24 Q. To the best of your knowledge do you know  
25 if Edison intended to move to the United States



1 permanently?

2 A. It was never in his plans.

3 Q. To the best of your knowledge, do you  
4 know if Edison consented to Thiago remaining  
5 permanently in the United States?

6 A. He didn't permit it, nor would he.

7 MS. FISHER: That's all at this time,  
8 Your Honor.

9 THE COURT: Okay, thank you. Now, we're  
10 ready for the rebuttal testimony of the respondent.

11 MS. FISHER: Mr. Sanderson may want to  
12 cross-examine.

13 THE COURT: Excuse me?

14 MR. SANDERSON: Yeah, I'd like to ask her  
15 just a couple questions.

16 THE COURT: Oh, I'm sorry.

17 **REBUTTAL CROSS-EXAMINATION**

18 BY MR. SANDERSON:

19 Q. Hi, Ms. Vasquez. This is Joel Sanderson,  
20 the attorney for Ms. Gamba.

21 A. Very good day to you. How are you?

22 Q. Doing well, thanks. You testified just  
23 now that you cared for Thiago on the weekends. Where  
24 were you and where was Thiago when you were caring for  
25 him?

1           A.     At my house.

2           Q.     So on the weekends Thiago was usually  
3 over at your house?

4           A.     Normally on weekends -- can I say  
5 something else?

6           Q.     I have an additional question,  
7 Ms. Vasquez. So before Ms. Gamba came to the  
8 United States, did you know that Ms. Gamba wanted to  
9 move to the United States?

10          A.     I got very sad at the moment that I  
11 realized that she was abandoning her little child.

12                 THE COURT: That was not the question.  
13 Ask the question again. This is the Judge speaking.  
14 BY MR. SANDERSON:

15          Q.     Before Ms. Gamba came to the  
16 United States, did you know that she wanted to move to  
17 the United States?

18          A.     I was not up to date on her plans.

19                 MR. SANDERSON: No more questions,  
20 Your Honor.

21                 THE COURT: Any redirect?

22                 MS. FISHER: No, Your Honor.

23                 THE COURT: All right. Now we will go  
24 to -- thank you, Ms. Vasquez. Let me ask, is your son  
25 with you at the moment?

1 THE WITNESS: Yes, he's here with me.

2 THE COURT: Okay.

3 All right. Mr. Sanderson, we're ready  
4 for the respondent's rebuttal.

5 MR. SANDERSON: Your Honor, the attorney  
6 is having trouble connecting to the system. I can go  
7 ahead and put on Ms. Gamba.

8 THE COURT: Okay.

9 **PAOLA GAMBA**

10 called as a witness, after having been first duly  
11 sworn, testified as follows:

12 **REBUTTAL DIRECT EXAMINATION**

13 BY MR. SANDERSON:

14 Q. Ms. Gamba, I'm going to first ask you  
15 some questions about the abuse that you testified  
16 about before.

17 A. Okay.

18 Q. Now, before you testified an incident  
19 about -- about an incident where Mr. Carvajal used  
20 your hands and wrists to choke you around the neck.

21 A. Yes.

22 Q. Were there any other incidents where you  
23 ended up feeling as though you were being choked  
24 around the neck?

25 A. Yes.

1 Q. What happened?

2 A. On his niece's Angela's birthday, he took  
3 my child from me, said he was going to take him. He  
4 hit me and since his sister got into it also, he hit  
5 her. He ended up hitting both of us.

6 Q. And where did that occur?

7 A. That happened in San Andre when we were  
8 celebrating his niece's birthday.

9 Q. And approximately when did that happen?

10 A. It happened in April 2016.

11 Q. And were there any other incidences where  
12 you were either choked or hit?

13 A. Yes.

14 Q. Can you describe another incident?

15 A. At my house.

16 Q. What happened?

17 A. He arrived drunk looking for sex. Since  
18 I didn't give in, he tried to choke me.

19 Q. And what happened next?

20 A. I had to call my parents.

21 Q. And what did your parents do?

22 A. They helped me. They separated me from  
23 him.

24 Q. And are there other incidences that you  
25 haven't described here or in your previous testimony?

1           A.     There were many incidents.

2           Q.     Okay. That's all I'm going to ask about  
3 the abuse. I now am going to ask about Mr. Carvajal's  
4 witness, Diana Vasquez.

5           A.     Okay.

6           Q.     When you lived in Colombia, did you ever  
7 meet Ms. Vasquez?

8           A.     I saw her once.

9           Q.     And where did you see her?

10          A.     I saw her at a property where I had taken  
11 my son for him to meet her.

12          Q.     And was anybody else there?

13          A.     Yes.

14          Q.     And why were they there?

15          A.     They were there because Diana had come  
16 from Canada for a visit. It hadn't been too long.  
17 And since she doesn't get to Colombia very much, they  
18 like to get the whole family together.

19          Q.     So how many people were there?

20          A.     Oh, I don't know, a lot. Maybe 40.  
21 Lots.

22          Q.     When you lived in Colombia, were you  
23 close to Ms. Vasquez?

24          A.     No, because she lives in Canada. I just  
25 saw her the one time.

1 Q. And did you ever start communicating with  
2 her more?

3 A. Yes.

4 Q. When was that?

5 A. When I got to the United States.

6 Q. And how did you end up communicating with  
7 her once you were in the United States?

8 THE INTERPRETER: May the interpreter ask  
9 for a clarification from counsel. How?

10 MR. SANDERSON: Yes, not the manner,  
11 the -- like what caused you to become --

12 THE INTERPRETER: Thank you.

13 THE WITNESS: She got in touch with me  
14 because she had been through that whole immigration  
15 process, the same as my process. And he asked --  
16 Edison asked her to get in touch with me.

17 BY MR. SANDERSON:

18 Q. Okay. And then about -- I want to ask a  
19 couple questions about Ana Maria Vasquez.

20 A. Fine.

21 Q. When you lived in Colombia, how well did  
22 you know her?

23 A. No, I didn't know her very well.

24 FROM THE PHONE: Good morning.

25 MR. SANDERSON: Could you ask her to put

1       it on mute?

2                   FROM THE PHONE:   Okay.

3                   THE COURT:   What are we hearing in the  
4       background?

5                   MR. SANDERSON:   I believe she's at work.

6                   THE COURT:   Who is at work?

7                   MR. SANDERSON:   This is an attorney from  
8       Colombia.   She just obtained one document for us.

9                   THE COURT:   Okay.   Well, ask her to put  
10      her phone on mute at the moment.

11                  MR. SANDERSON:   Ms. -- you don't need to  
12      respond to this, but to let you know, it's going to be  
13      just a few minutes until you are going to testify.

14                  THE COURT:   Mr. Sanderson, if your  
15      examination of your client is going to be lengthy, we  
16      could interrupt it.   We do have -- in the interest of  
17      time.

18                  MR. SANDERSON:   It's not going to be  
19      particularly lengthy.   I don't have that much more,  
20      but I -- I suspect that the cross may be a little  
21      while, so I'd be happy to just go over this real  
22      quick.

23                  THE COURT:   Yeah.   Would that be all  
24      right with you, Ms. Fisher?

25                  MS. FISHER:   Yes, Your Honor, that's

1 fine.

2 THE COURT: You can stay where you are,  
3 Ms. Gamba. And we're going to interrupt the testimony  
4 of the respondent, Ms. Gamba, in order to take this  
5 additional witness. She is in Colombia and she's a  
6 lawyer and I'm sure she's very busy. And so we will  
7 go ahead and take her testimony now. So if you would  
8 take your phone off mute, we will swear you in and  
9 take your testimony at this time.

10 **LAURA VANESSA OQUENDO RUIZ**

11 called as a witness, after having been first duly  
12 sworn, testified as follows:

13 **DIRECT EXAMINATION**

14 BY MR. SANDERSON:

15 Q. Ms. Oquendo, I just handed the Judge a  
16 copy of --

17 THE COURT: Can we have her full name? I  
18 haven't gotten her name.

19 MR. SANDERSON: Sorry, Your Honor. Can  
20 you state your name for the Court?

21 THE COURT: What is her name?

22 THE WITNESS: Yes, my name is Laura  
23 Vanessa Oquendo Ruiz.

24 BY MR. SANDERSON:

25 Q. And what is your profession?



1           A.     I'm an attorney.

2           Q.     And where are you an attorney?

3           A.     Since the 5th of March of 2018 I'm  
4 working in the judicial branch as a scribe.

5                   THE INTERPRETER:   Could be a notary.

6                   THE WITNESS:   In Antioquia.   The Second  
7 Judicial District of Antioquia in the criminal trial  
8 system.

9 BY MR. SANDERSON:

10           Q.     Ms. Oquendo, you provided a letter to Ms.  
11 -- or did you provide a letter to Ms. Gamba about the  
12 requirements to obtain the degree of lawyer in  
13 Colombia?

14           A.     Yes, I gave her a letter that was given  
15 to me by the Autonomous University of Colombia.

16           Q.     And how did you obtain that document?

17                   THE INTERPRETER:   May the interpreter  
18 instruct the witness to separate the words more  
19 clearly.

20                   THE WITNESS:   I obtained the letter from  
21 the University of Latin America -- Autonomous  
22 University of Latin America when I requested that they  
23 give me all of the requirements for people who wish to  
24 become lawyers here.

25

1 BY MR. SANDERSON:

2 Q. And the -- there are some different  
3 dollar amounts on this page. Are those in Colombian  
4 currency or in US dollars?

5 A. They are Colombian. They're Colombian  
6 prices in pesos.

7 Q. And did you also provide a letter stating  
8 that you are a lawyer for the -- to be included with  
9 that document from the university?

10 A. Yes. Yes. Yes, I provided a letter.  
11 The letter.

12 Q. And did you also provide any proof that  
13 you are a lawyer?

14 A. Yes, of course. I provided my  
15 professional card and also a certificate. A  
16 certificate that can be taken out of the website of --  
17 that you can get off the website.

18 MR. SANDERSON: Your Honor, we -- the  
19 last certificate was not included in this because we  
20 figured that the bar card was enough.

21 THE COURT: Okay.

22 MR. SANDERSON: I would move to admit  
23 this packet of documents as the next respondent's  
24 exhibit.

25 THE COURT: I think it's 12. Is that

1 right?

2 COURTROOM DEPUTY: It's 12.

3 THE COURT: Is there any objection?

4 MS. FISHER: No, Your Honor. I would  
5 just like to note on the record that the translation  
6 is not through a court-certified interpreter. We  
7 don't object.

8 THE COURT: Thank you. 12 is admitted.

9 (Respondent Exhibit No. 12 was admitted.)

10 THE COURT: Ms. Fisher, do you have any  
11 cross for this witness?

12 MS. FISHER: Yes, Your Honor, briefly.

13 THE COURT: Okay.

14 MR. SANDERSON: Ms. Oquendo, the attorney  
15 for Mr. Carvajal is going to ask you a few questions  
16 now.

17 THE INTERPRETER: This is the interpreter  
18 speaking. Is it possible for the interpreters to have  
19 a copy of the document if we're going to be discussing  
20 it?

21 MR. SANDERSON: Sure.

22 **REBUTTAL CROSS-EXAMINATION**

23 BY MS. FISHER:

24 Q. Ms. Ruiz, my name is Alex Fisher. Thank  
25 you for your time today.

1           A.     My pleasure.

2           Q.     Ms. Ruiz, are you related in any way to  
3 Ms. Paola Gamba?

4           A.     No, but I've known her for many years.

5           Q.     Are you dating or in a relationship with  
6 any of Ms. Gamba's family members?

7           A.     Yes.

8           Q.     Which of her family members?

9           A.     With her brother.

10          Q.     You stated earlier the requirements you  
11 have provided to us to obtain an academic degree are  
12 from the Autonomous University of Latin America in  
13 Colombia; is that correct?

14          A.     Yes.

15          Q.     Is that the university you attended for  
16 law school?

17          A.     Yes, I studied at the Latin American  
18 University, the Autonomous University of Latin  
19 America, and I graduated from there.

20          Q.     Is that a private or a public school?

21          A.     It's private.

22          Q.     Do you know if their requirements differ  
23 to obtain an academic degree as a lawyer in Colombia  
24 between a private and a public school?

25          A.     Yes. There are some that are generic

1 requirements for all universities, and there are some  
2 that are particular to the school itself.

3 Q. Do you know if Edison Carvajal attended  
4 the Autonomous University of Latin America?

5 A. Yes, well, he went there sometimes. He  
6 took classes there at times.

7 THE INTERPRETER: Excuse me. The  
8 interpreter corrects the record. I saw him there  
9 sometimes at the university taking classes.

10 MS. FISHER: I think that's all at this  
11 time. Thank you, Ms. Ruiz.

12 THE COURT: Any redirect of Ms. Oquendo?

13 MR. SANDERSON: No, Your Honor.

14 THE COURT: Ms. Oquendo, thank you. This  
15 is the judge. Thank you very much. We're finished  
16 with your examination.

17 THE WITNESS: My pleasure.

18 \*\*\*\*\*WITNESS EXCUSED\*\*\*\*\*

19 THE COURT: Are we in agreement, then,  
20 that the school where Mr. Carvajal took all this legal  
21 course work is the same school for which we have these  
22 documents?

23 MS. FISHER: Not yet, Your Honor. I'm  
24 confirming that right now.

25 THE COURT: Okay. All right. Now we're

1 going to go back and continue the rebuttal testimony  
2 of the respondent. Mr. Sanderson.

3 MR. SANDERSON: Thank you, Your Honor.

4 **CONTINUED REBUTTAL DIRECT EXAMINATION**

5 BY MR. SANDERSON:

6 Q. Ms. Gamba, they'd asked you how well you  
7 knew Ana Maria Vasquez.

8 A. I didn't know her very well.

9 Q. And where had you met her?

10 A. At the shopping center. When I went with  
11 my mom I saw her.

12 Q. And where was she working?

13 A. Selling ice creams.

14 Q. And approximately when was that?

15 A. When my little boy was maybe two months  
16 old.

17 Q. And did you ever get to know her better?

18 A. No. I knew that she was Edison's cousin  
19 because Edison had told me that he had a cousin who  
20 worked there.

21 Q. Okay. Now, I want to ask you about some  
22 emails that we've submitted as evidence previously.

23 A. Okay.

24 Q. Some of these emails are from 2013 and  
25 2014. How did you end up with those emails?

1           A.     From Mr. Edison's email who opened up his  
2 email on my computer and left it open.

3           Q.     And so what did you do?

4           A.     I went through them.

5           Q.     Why is that?

6           A.     I wanted to know what he was hiding.

7           Q.     And those emails from 2013 and 2014 were  
8 sent from Mr. Carvajal's account to your account. How  
9 did they end up being sent to your account?

10           THE INTERPRETER: What was the last part  
11 of the question, Counsel?

12           BY MR. SANDERSON:

13           Q.     How did those emails end up being sent  
14 from his account to your account?

15           A.     I sent them.

16           Q.     And then so some of the emails that we  
17 submitted were from 2016. How did you end up with  
18 those emails?

19           A.     The ones that are from 2016 were sent to  
20 me by Ms. Luz Elena Villegas.

21           Q.     Why were they sent to you?

22           A.     She sent them to me to confirm to me that  
23 she still had a relationship with Edison.

24           Q.     And why did she want to confirm that she  
25 had a relationship with Edison?

1           A.     Because she realized that he was going to  
2     make a trip in December. And so she got annoyed  
3     because he told her that he didn't have anything with  
4     me.

5                     In fact, he said to her that the only  
6     thing he was going to do was bring me my son and go  
7     back to her.

8           Q.     And when Ms. Villegas testified, she said  
9     that Mr. Carvajal didn't work on the weekends so that  
10    he could spend time with Thiago. And so do you recall  
11    if Mr. Carvajal ever worked on the weekend?

12          A.     I remember that on weekends Mr. Carvajal  
13    would be completely drunk hanging out with his friends  
14    out on somebody's property.

15          Q.     And before, during the day, do you know  
16    if he was going to work?

17          A.     The official employees only work from  
18    Monday through Friday.

19          Q.     So he didn't work on the weekends?

20          A.     He did not work on weekends.

21          Q.     Ms. Gamba, do you know what this document  
22    is?

23          A.     Yes.

24          Q.     What is it?

25          A.     It's the house where I've always lived,



1 and here it states that it is the property of my  
2 parents.

3 Q. And how did you obtain this document?

4 A. These are the taxes that one pays on the  
5 home. And my mom and my stepfather sent it to me.  
6 It's in both of their names.

7 MR. SANDERSON: Your Honor, I'd move to  
8 admit this solely for the purpose of demonstrating the  
9 parents' ownership or the mother's ownership of the  
10 house.

11 THE COURT: Any objection?

12 MS. FISHER: No objection, Your Honor.  
13 We'd just like to note for the record that this was  
14 not translated by an official court-certified  
15 interpreter.

16 THE COURT: Okay, thank you. It will be  
17 received as Exhibit 13.

18 (Respondent Exhibit No. 13 was admitted.)

19 BY MR. SANDERSON:

20 Q. Ms. Gamba, when Mr. Carvajal left the  
21 United States in January 2017, did he leave anything  
22 in the United States?

23 A. Yes.

24 Q. What did he leave?

25 A. He left a suitcase with the things that

1 he had come with, his personal things, clothing and  
2 shoes with the promise of coming back.

3 Q. Ms. Gamba, do you recognize this bag?

4 A. Yes.

5 Q. What is it?

6 A. That's Mr. Edison Carvajal's suitcase.

7 Q. And how do you know that?

8 A. It's marked that he wrote it down himself  
9 the day that he made the trip.

10 Q. And inside the bag are some clothing. Do  
11 you recognize this clothing?

12 A. Yes, that's some of Mr. Edison's  
13 clothing.

14 Q. Ms. Gamba, what are these photos?

15 A. These pictures are Mr. Edison Carvajal  
16 wearing that clothing that he left here in the  
17 United States.

18 Q. So in the first photo, is this -- do you  
19 think that this is the piece of clothing he's wearing?

20 A. Yes, he's wearing two jackets because it  
21 was very cold, and that's the one he was wearing  
22 underneath.

23 THE COURT: And let the record reflect  
24 Mr. Sanderson is holding up a long-sleeved orange  
25 hooded sweatshirt.

1 BY MR. SANDERSON:

2 Q. And in the second photo?

3 A. In the second picture it shows Mr. Edison  
4 on the porch of the home wearing that shirt.

5 Q. And is that shirt that I'm holding up, do  
6 you believe that it's the same as the shirt in the  
7 second photo?

8 A. Yes, it's the same one.

9 THE COURT: Let the record reflect  
10 Mr. Sanderson is holding up a dark red short-sleeved  
11 T-shirt with a white design on the front of it.

12 BY MR. SANDERSON:

13 Q. And the third photo has a photo of  
14 Mr. Carvajal with a child on it. Do you recognize  
15 that shirt?

16 A. With this T-shirt on was when he asked me  
17 for forgiveness for his infidelity with Ms. Luz Elena  
18 and asked me for a new opportunity for him to be able  
19 to start all over again with me and the baby.

20 Q. And do you believe that the shirt in the  
21 third photo is the same as the shirt that I'm holding  
22 up now?

23 A. It's the same one. He made it. He  
24 brought it and he left it.

25 THE COURT: Does it have writing on it?

1 THE WITNESS: Yes.

2 THE COURT: What does the writing say?

3 THE WITNESS: It says mommy, give daddy  
4 one last chance. He loves us very much.

5 And effectively I did give him the last  
6 chance. And I ended up waiting for him.

7 MR. SANDERSON: Your Honor, I'd move to  
8 admit the photos of Mr. Carvajal wearing this  
9 clothing.

10 THE COURT: Any objection to the photos?

11 MS. FISHER: No objection, Your Honor.  
12 Would just like to note on the record that there's no  
13 time or date stamp on these photos.

14 THE COURT: Received as Exhibit 14.

15 (Respondent Exhibit No. 14 was admitted.)

16 BY MR. SANDERSON:

17 Q. Ms. Gamba, I've handed you an email. Do  
18 you recognize this email?

19 A. Yes.

20 Q. And what is this email?

21 A. It's from a representative in Washington  
22 of the Colombian embassy.

23 Q. Is it -- it's from the -- somebody in  
24 Washington or it's to somebody in Washington?

25 A. I'm sending it to this gentleman who is a

1 representative of the embassy in Washington.

2 Q. And previously an email with Mr. Okun was  
3 admitted in this case. Is this a different email?

4 A. It's the same one.

5 Q. It's the same email that we submitted  
6 previously?

7 A. I don't remember, but it's the only one  
8 I've sent.

9 MS. FISHER: Respondent's Exhibit 8, I  
10 believe.

11 THE COURT: You're talking about  
12 Exhibit 8; right?

13 MR. SANDERSON: Yes, Your Honor.

14 THE WITNESS: Oh, yes, I'm sorry. It's  
15 the reply to those emails. I see.

16 BY MR. SANDERSON:

17 Q. And how did you end up -- why did you end  
18 up sending these emails?

19 A. I sent these emails so we would come to a  
20 conciliatory agreement with Edison about him being  
21 able to see his son, which he rejected because he said  
22 that what he wants is for me to go back to Colombia.

23 MR. SANDERSON: Your Honor, I'd move to  
24 admit this as Respondent Exhibit 15.

25 THE COURT: Any objection?

1 MS. FISHER: None at this time,  
2 Your Honor.

3 THE COURT: All right. Received.

4 MS. FISHER: I'd just like to note for  
5 the record that the translation is not by a certified  
6 court interpreter.

7 THE COURT: Okay.

8 (Respondent Exhibit No. 15 was admitted.)

9 BY MR. SANDERSON:

10 Q. Ms. Gamba, when Thiago spent his first  
11 five months here up until January 2017, did he like it  
12 here?

13 A. Yes. He loves being here.

14 Q. And when he first got here in August of  
15 2016, did he speak at all?

16 A. No, he didn't talk at all. He just said  
17 mama.

18 Q. And when Mr. Carvajal visited  
19 in December 2016 to January of 2017, did Thiago speak  
20 at all then?

21 A. Yes. Yes, he was already talking.

22 Q. And what language did he speak?

23 A. In English.

24 Q. And during his time here, did Thiago  
25 know -- get to know any of his family other than

1 Mr. and Mrs. Chambers?

2 A. Yes.

3 Q. Who else has he spent time with?

4 A. David's father -- parents. David's  
5 parents. And my son calls them his grandpas. He says  
6 granny and grandpa.

7 Q. And who does he call granny and grandpa?  
8 Can you clarify?

9 A. David's parents.

10 Q. And has he met any of the other -- any  
11 other family members in the United States?

12 A. Yes.

13 Q. And who else has he met?

14 A. David has some daughters and they have  
15 sons. And, in fact, even last Sunday we were together  
16 with them in a family reunion at a birthday.

17 MR. SANDERSON: The interpreter -- I  
18 believe she said has brothers and sisters.

19 BY MR. SANDERSON:

20 Q. Ms. Gamba, does David have -- were you  
21 talking about David's brothers and sisters or were you  
22 talking about his children just now?

23 A. All together.

24 Q. But just now when you were talking, were  
25 you talking about brothers --

1           A.     David has two brothers. They're married.  
2 They have daughters. And those daughters have  
3 children. So we all got together like a family to  
4 share time together.

5           Q.     And how often do you see them?

6           A.     A lot. Just last Sunday we were all  
7 together.

8           Q.     And how often does he see his  
9 grandparents? Or David's parents, excuse me.

10          A.     Every day.

11          Q.     He sees David's parents every day?

12          A.     Every day.

13          Q.     Where do they live?

14          A.     Right across the street from us.

15          Q.     When did you first tell Mr. Carvajal that  
16 you wanted to come to the United States to live here?

17          A.     I told him that I wanted to come here the  
18 first time that I realized that he had a visa, and I  
19 complained to him, why hadn't he included me.

20          Q.     And approximately when was that?

21          A.     I'm not sure. It was when Thiago was  
22 very young. I think maybe in 2014 or 2015, probably.

23          Q.     And once you were in the United States,  
24 did you and Mr. Carvajal discuss where Thiago was  
25 going to live?



1 A. Yes.

2 Q. And what did you guys talk about?

3 A. That he wanted the child to live here.

4 Q. Why did he want the child to live here?

5 A. Because it was so much better than  
6 Colombia, education, the care and my child here, he  
7 can go out, he can run around. He's spending time  
8 with the family.

9 Q. And when Thiago was still in Colombia,  
10 did he spend a lot of time at Mr. Carvajal's parents'  
11 house?

12 A. No.

13 Q. How often did he go over there?

14 A. Sometimes Edison would go to my house and  
15 ask me if I would let the child go -- if he could take  
16 the child with him. But he wouldn't be gone even a  
17 half hour because he would say that the baby was  
18 crying. And the baby cried because he didn't know  
19 them.

20 Q. And did you go with Thiago and  
21 Mr. Carvajal to his parents' house?

22 A. Never.

23 Q. Why not?

24 A. Ms. Elana Socorro, his mother, had  
25 prohibited me from getting near their house.

1 Q. Why did she do that?

2 A. Because, according to her, I don't have  
3 enough studies completed to be near her son.

4 Q. And since he's been in the United States,  
5 who has taken -- since Thiago has been in the  
6 United States, who's primarily taken care of him?

7 A. When I go to work, he stays with my  
8 sister and with David.

9 Q. And when you're not at work?

10 A. Me.

11 Q. And does he live with you?

12 A. Yes, I get out of work at 1 o'clock and  
13 he spends the whole afternoon with me.

14 MR. SANDERSON: No more questions,  
15 Your Honor.

16 THE COURT: Cross? Yes, Your Honor.

17 **REBUTTAL CROSS-EXAMINATION**

18 BY MS. FISHER:

19 Q. Good afternoon -- or good morning,  
20 Ms. Gamba.

21 MS. FISHER: Your Honor, for the Court's  
22 record, we have certified interpretations of  
23 defendant's Exhibit 9 and 11, which I provided to  
24 defendant's counsel. If I could move these into  
25 evidence at this time, Your Honor.

1 THE COURT: These are the two exhibits  
2 that contain emails between Mr. Carvajal and Ms. Luz?

3 MS. FISHER: Yes, Your Honor.

4 THE COURT: Okay. Any objection?

5 MR. SANDERSON: No objection, Your Honor.

6 THE COURT: All right. So those would  
7 be, what, 16, collective 16?

8 MS. FISHER: Plaintiff's 16. We can just  
9 make them a collective exhibit, Your Honor, if that's  
10 acceptable.

11 THE COURT: That's fine.

12 (Petitioner Exhibit No. 16 was admitted.)

13 THE INTERPRETER: May the interpreters  
14 have copies if we're going to be having questions  
15 about them?

16 MS. FISHER: Yes.

17 BY MS. FISHER:

18 Q. Ms. Gamba, I'd like to hand you at this  
19 time several documents that happen to be screenshots  
20 of What's App conversations between you and Ms. Diana  
21 Vasquez. Ms. Gamba, do these appear to be What's App  
22 messages between yourself and Ms. Diana Vasquez  
23 between approximately December 2017 and March 2018?

24 A. Yes.

25 MS. FISHER: Your Honor, at this time I'd

1     like to move these into evidence as Petitioner's  
2     Exhibit 17.

3                 THE COURT: Any objection?

4                 MR. SANDERSON: I haven't checked, given  
5     that the second one seems to have no context and --  
6     oh, they're just out of order a little?

7                 MS. FISHER: These are in the order that  
8     they were provided. So the English translation is in  
9     the same order as the Spanish screenshots that are  
10    provided directly behind them.

11                MR. SANDERSON: No objections,  
12    Your Honor.

13                THE COURT: All right. Received as  
14    Exhibit 17.

15                         (Petitioner Exhibit No. 17 was admitted.)

16    BY MS. FISHER:

17                Q.     Ms. Gamba, you are using an interpreter  
18    here in court today; correct?

19                A.     Not literally. I mean, I understand.

20                Q.     So why are you using an interpreter in  
21    court, then?

22                A.     There are some words that one doesn't  
23    know. In fact, legal ones, because, I mean, I don't  
24    have anything to do with the law.

25                Q.     And that's because you're a native

1 Spanish speaker; is that correct?

2 A. Yes.

3 Q. And you testified here today that you are  
4 the primary caregiver for your son Thiago since you've  
5 lived in the United States; is that right?

6 A. I said my sister because I work.

7 Q. So Thiago spends most of his time with  
8 you or your sister; is that fair?

9 A. And with David.

10 Q. And your sister is also a native Spanish  
11 speaker; is that right?

12 A. Yes. She speaks English and Spanish.

13 Q. You and your sister mostly speak Spanish  
14 when the two of you are talking to one another; right?

15 A. We do, yes. Between her and me? Yes.

16 Q. So it's fair to say that Thiago at least  
17 understands Spanish if he's spending most of his time  
18 with you or your sister Kelly?

19 A. My sister at her home speaks English  
20 because David does not speak Spanish. And I speak  
21 English with my son because there are words that he  
22 doesn't understand.

23 Q. The question was whether or not Thiago  
24 understands Spanish if he spends most of his time with  
25 you and your sister. Is it fair to say that Thiago

1 understands some Spanish?

2 A. The truth is I don't know. I speak with  
3 him in English. The fact is my mom who speaks with  
4 him through video calls is doing English classes  
5 because she speaks Spanish he doesn't understand.

6 THE INTERPRETER: He does not understand  
7 her.

8 BY MS. FISHER:

9 Q. Okay. I have some questions for you  
10 about your communications with Luz Villegas.

11 A. Go ahead.

12 Q. Ms. Villegas testified to this Court in  
13 her affidavit that you contacted her in 2016 and  
14 threatened her; is that correct?

15 A. That's not correct. I've never contacted  
16 her. She contacted me.

17 Q. So there is an email that Ms. Villegas  
18 provided to the Court that is from you to her dated  
19 February 21, 2018, 11:26 a.m. Did you not send an  
20 email to Ms. Villegas on February 21?

21 A. That is true, I was responding to an  
22 email that she sent me in December. That's how I had  
23 her information. And I -- none of it am I threatening  
24 her.

25 Q. Okay. I just asked if you sent her an

1 email.

2 MS. FISHER: Could we please pass the  
3 witness Defendant's Exhibit 15. Do you have that?  
4 Which should be the affidavit of Luz Elena Villegas  
5 and its attachments.

6 THE COURT: Defense Exhibit 15? That's  
7 the letter she sent to David Okun.

8 MS. FISHER: Sorry, petitioner's  
9 Exhibit 15. My apologies, Your Honor.

10 BY MS. FISHER:

11 Q. Ms. Gamba, could you please turn to what  
12 will be the very last page is the version in Spanish  
13 of the email from you to Luz Villegas?

14 A. Yes.

15 Q. If you'll look down to the third  
16 paragraph of the email, you write to Ms. Villegas, I  
17 know that what I'm asking you for is not easy, but for  
18 my child --

19 THE INTERPRETER: One moment, please,  
20 Counsel. I know it's not easy for you -- I'm sorry,  
21 the interpreter needs you to repeat.

22 MS. FISHER: Not a problem. My  
23 apologies.

24 BY MS. FISHER:

25 Q. I know that what I am asking you for is

1 not easy, but for my child I am really willing to do  
2 whatever it takes. Is that an accurate statement?

3 A. Yes, I know it's difficult for her  
4 because I know that she had a relationship with  
5 Edison. When I talked to her in 2016 she swore to me  
6 on her mother's grave that if I needed anything for me  
7 to tell her.

8 Q. Ms. Gamba, I have a few more questions  
9 for you. Okay?

10 A. Okay.

11 Q. Your attorney earlier introduced a piece  
12 of evidence to you related to property taxes your  
13 parents paid.

14 A. That's not true -- well, that's not true,  
15 we don't have --

16 THE INTERPRETER: May the interpreter  
17 make an inquiry as to the word f-i-n-c-a in Spanish.  
18 We may have different dialects of Spanish and it's  
19 used differently.

20 THE COURT: Okay.

21 THE INTERPRETER: The interpreter would  
22 like to correct the record.

23 THE WITNESS: That's not true, we don't  
24 have a country home. The property, we don't have a  
25 country property.



1 BY MS. FISHER:

2 Q. That was not the question. The question  
3 was whether your attorney introduced to you earlier  
4 Respondent's Exhibit 13, which is evidence of property  
5 taxes your parents paid on their home.

6 A. Yes.

7 Q. If your parents own their home and  
8 someone pays them rent, they still owe the property  
9 taxes on the home they own; correct?

10 A. Yes.

11 Q. You were asked several questions earlier  
12 about David Chambers, your sister's husband; correct?

13 A. Yes.

14 Q. And David Chambers, his extended family,  
15 is not related to Thiago; right?

16 A. They're not blood relatives, but he loves  
17 them very much.

18 Q. It's fair to say that Thiago has more  
19 people who are blood relatives in Colombia than he  
20 does here in the United States; right?

21 A. The blood relationship doesn't make any  
22 difference if one doesn't love the person.

23 Q. That was not the question. The question  
24 was is it fair to say that Thiago has more blood  
25 relatives in Colombia than he does here in the

1 United States?

2 A. Yes.

3 Q. Ms. Gamba, you have previously stated  
4 that you intend to file an application for political  
5 asylum so you can remain in the United States; is that  
6 right?

7 A. Yes.

8 Q. If you know, are you seeking political  
9 asylum in the United States based on your race?

10 A. No.

11 Q. If you know, are you seeking political  
12 asylum based on your religion?

13 A. No.

14 Q. If you know, are you seeking political  
15 asylum based on your nationality?

16 A. No.

17 Q. If you know, are you seeking asylum based  
18 on your political opinions?

19 A. No.

20 Q. If you know, you're seeking asylum based  
21 on your membership in a particular social group?

22 A. No, I don't know.

23 MS. FISHER: That's all at this time,  
24 Your Honor.

25 THE COURT: Any redirect?

1 MR. SANDERSON: Yes, Your Honor.

2 **REBUTTAL REDIRECT EXAMINATION**

3 BY MR. SANDERSON:

4 Q. Ms. Gamba, are you an attorney?

5 A. No.

6 Q. Are you an expert in US law?

7 A. No. That's what I had just said a few  
8 minutes ago. I don't know anything about that.

9 Q. And are you an expert in asylum law, in  
10 particular?

11 A. No.

12 Q. Do you understand how an immigration  
13 court case goes from the very beginning of court to a  
14 final decision?

15 A. No.

16 Q. Do you have an attorney for your  
17 immigration court case?

18 A. Yes.

19 Q. Why do you have an attorney?

20 A. Because I don't know.

21 Q. Ms. Gamba, I would like to return to that  
22 email that you sent Ms. Luz Villegas for a moment.  
23 Okay?

24 THE COURT: What exhibit is that? Is it  
25 11? Your 11 or 9?

1 MR. SANDERSON: It's hers.

2 THE COURT: Is it plaintiff's  
3 collective 16?

4 MR. SANDERSON: I believe it's 15, the  
5 affidavit of --

6 THE COURT: The affidavit of Luz  
7 Villegas?

8 MR. SANDERSON: Yes.

9 THE COURT: That's plaintiff's 15,  
10 petitioner's 15. Does she have it? Do you want to  
11 ask her questions about it?

12 MR. SANDERSON: Yes, I believe --

13 BY MR. SANDERSON:

14 Q. Do you still have that in front of you?

15 A. Yes.

16 Q. And in that email in the -- it's the  
17 second paragraph that begins speaking about your  
18 cousin Daniel. You appear to be asking Ms. Villegas  
19 for something. Do you recollect what you -- or can  
20 you tell me what you were asking her?

21 A. Yes.

22 Q. What were you asking for?

23 A. I'm -- it says here I'm writing you from  
24 mother to mother to ask you for all -- bottom of my  
25 heart to help me by sending me a letter that will say

1 that if you had or do have a relationship with Edison,  
2 if you know his mom and his family, because they're  
3 here and they are saying that they don't know you.

4 Q. And then what did you ask her about the  
5 weekends?

6 A. He alleges that he was spending every  
7 weekend with Thiago when the truth is that many of  
8 them he was spending with you.

9 THE INTERPRETER: Interpreter needs to  
10 make a clarification.

11 THE WITNESS: And that both of you, many  
12 times, went off together on weekends.

13 BY MR. SANDERSON:

14 Q. And were you asking her to tell the  
15 truth?

16 A. Yes.

17 Q. And why were you asking her to tell the  
18 truth?

19 A. Well, because they were lying and that I  
20 know that she could tell the truth.

21 MR. SANDERSON: No more questions,  
22 Your Honor.

23 THE COURT: Any recross?

24 MS. FISHER: Very brief, Your Honor.  
25

**REBUTTAL RECROSS-EXAMINATION**

BY MS. FISHER:

Q. Ms. Gamba, we're still looking at petitioner's Exhibit 15, this email dated February 21, 2018, from you to Ms. Villegas.

A. Okay.

Q. In the first sentence of the second paragraph --

A. Yes.

Q. -- you wrote you've already met another person?

A. Yes.

Q. Are you currently dating someone?

A. Yes.

Q. And how long have you been in that relationship?

A. Ten months.

Q. And is that person a US citizen?

A. Yes.

Q. And how did you meet them?

A. A girlfriend of mine introduced us.

Q. A girlfriend of yours who lives here in the United States?

A. Yes.

Q. Ms. Gamba, do you need an attorney to

1 tell you if you're being persecuted based on your  
2 race?

3 A. No.

4 MS. FISHER: That's all, Your Honor.

5 THE COURT: Anything else?

6 MR. SANDERSON: One question, Your Honor.

7 **REBUTTAL REDIRECT EXAMINATION**

8 BY MR. SANDERSON:

9 Q. Ms. Gamba, can you tell me under US  
10 asylum law what a particular social group is?

11 A. No, I don't know what that is.

12 MR. SANDERSON: No more questions,  
13 Your Honor.

14 MS. FISHER: No recross, Your Honor.

15 THE COURT: Ms. Gamba, you must have some  
16 sense of how you are applying for political asylum.

17 THE WITNESS: Initially I was going to  
18 ask for political asylum with Edison. And he's the  
19 one who's involved in all of the criminal law and  
20 information. I'm here already and he didn't want to  
21 do this with me. So through my attorney we're going  
22 to do it for domestic violence that he caused me.

23 THE COURT: When you were going to apply  
24 for political asylum with Edison, what was the basis  
25 for that? What did you talk about?

1 THE WITNESS: He told me that Ms. Luz  
2 Elena's husband was a corrupt attorney, and because of  
3 the fact that he had had that relationship with her,  
4 they were going to kill the whole bunch of us.

5 THE COURT: And was this -- when you say  
6 they, you mean Luz's husband had a gang or a group of  
7 people that were going to do this killing?

8 THE WITNESS: Edison referred to him to  
9 Luz's husband as the head of a group of delinquents  
10 called La oficina, the office.

11 THE COURT: You mean criminals. Not  
12 delinquents, but criminals?

13 THE WITNESS: Criminals.

14 THE COURT: So the plan was that you and  
15 Edison would claim political asylum?

16 THE WITNESS: Yes.

17 THE COURT: Because this group,  
18 La oficina, had plans to kill you and Edison and your  
19 child because of the affair?

20 THE WITNESS: Yes.

21 THE COURT: Okay. But now your  
22 application for political asylum is based upon  
23 domestic violence against you by Edison?

24 THE WITNESS: Yes.

25 THE COURT: Anything else?



1 MS. FISHER: I have a brief recross,  
2 Your Honor.

3 THE COURT: All right, go ahead.

4 MS. FISHER: Thank you.

5 **REBUTTAL RECROSS-EXAMINATION**

6 BY MS. FISHER:

7 Q. Ms. Gamba, why do you think Edison  
8 remained in Colombia if he is in such danger?

9 A. I think that he is -- he was laying a  
10 trap for me.

11 Q. How do you think he has escaped harm for  
12 over a year in Colombia?

13 A. I don't know, really. I don't.

14 MS. FISHER: That's all. Thank you.

15 THE COURT: Was this plan to claim  
16 political asylum based on this La oficina, was this a  
17 real threat, do you think, or is this just something  
18 you and Edison were going to claim was a threat?

19 THE WITNESS: No, it's something real.  
20 And I didn't say that Ms. Luz Elena called me in  
21 December of 2014 when my son was two months old. She  
22 said -- she's married and she said, my husband's a  
23 very dangerous person and I'm going to have him kill  
24 you and your child. I really got scared. And Edison  
25 was even more so than I was, so much so that he went

1 and hid out for two months.

2 THE COURT: Okay. You may step down.

3 THE WITNESS: I can go?

4 THE COURT: Yes.

5 THE WITNESS: Thank you (in English.)

6 \*\*\*\*\*WITNESS EXCUSED\*\*\*\*\*

7 THE COURT: All right. Any more rebuttal  
8 from the respondent?

9 MR. SANDERSON: No, Your Honor.

10 THE COURT: Any surrebuttal?

11 MS. FISHER: Yes, Your Honor. Mr. Edison  
12 Carvajal.

13 THE COURT: Mr. Carvajal, you're still  
14 under oath from earlier today. Are you there?

15 THE WITNESS: Yes, I'm here.

16 **SURREBUTTAL DIRECT EXAMINATION**

17 BY MS. FISHER:

18 Q. Mr. Carvajal, have you had a chance to  
19 look at what has been introduced today as the  
20 administrative requirements to obtain an academic  
21 title?

22 A. Yes, I know them.

23 MS. FISHER: Your Honor, for the  
24 interpreter, could we please hand the interpreter what  
25 is Respondent's Exhibit 12.

1 BY MS. FISHER:

2 Q. Mr. Carvajal, what university did you  
3 attend for your law school?

4 A. The Autonomous University of Latin  
5 America.

6 Q. And Mr. Carvajal, have you had a chance  
7 to look at the Spanish version of the requirements to  
8 obtain an academic degree that are purportedly for  
9 your university?

10 A. I know that document very well, so I  
11 haven't had to review it.

12 Q. Okay. Mr. Carvajal, have you completed  
13 your plan of study?

14 A. Yes, I finished all my studies. The only  
15 thing that's left to do is to finish with the  
16 graduation ceremony and all of the official  
17 administrative processes that have to be undergone.

18 Q. Okay. Mr. Carvajal, did you -- I'm going  
19 to ask you a different question now. Did you leave  
20 behind some items of clothing accidentally when you  
21 traveled back to Colombia from the US?

22 THE INTERPRETER: I couldn't hear.

23 BY MS. FISHER:

24 Q. Please repeat.

25 A. Yes, and I'll explain why I left them. I

1 left them there because Paola's sister Kelly wanted to  
2 send some presents back to the family in Colombia.  
3 And the suitcase that I had taken with me when I  
4 traveled -- because I never did intend to stay -- was  
5 a very small -- it was a very small suitcase, only  
6 enough for personal items.

7 Q. Mr. --

8 A. So Kelly told me that she wanted me to  
9 take some presents for her family members. And it's  
10 quite numerous, her family. There's four people, and  
11 so that I could leave some other things behind in  
12 order to fit those in.

13 Q. Mr. Carvajal, did you --

14 A. And that I could take a suitcase that she  
15 had that was bigger so that all the family's gifts  
16 would fit in it. That's the reason why I left --  
17 that's the reason why I left some of my own items  
18 behind.

19 Q. Mr. Carvajal, did Ms. Luz Villegas's  
20 husband ever threaten you or Ms. Gamba?

21 A. Never. That never happened.

22 MS. FISHER: That's all at this time,  
23 Your Honor.

24 THE COURT: Any cross?  
25

**SURREBUTTAL CROSS-EXAMINATION**

BY MR. SANDERSON:

Q. Mr. Carvajal, this is Joel Sanderson, the attorney for Ms. Gamba. I just have a few questions.

A. Hello, sir. How are you?

Q. I'm doing well. So I want to ask you about what you said about Paola's sister Kelly.

A. Okay, of course.

Q. Were you planning on getting the clothing that you left in the United States back?

A. No, she told me that she would bring it to me when she brought my son to me.

Q. And with regard to Luz Elena Villegas, did you ever have a romantic or sexual relationship with Ms. Villegas?

A. Well --

THE INTERPRETER: The interpreter wishes to say that the first part of the sentence is missing, so she's going to inquire about that, but in the meanwhile she'll say what was the second part before she forgets it.

THE WITNESS: But it didn't work out and that was in 2013, and that was before my son was born.

Yes, of course, I'll repeat it. In 2013 I went out with her a few times. And when things

1 didn't work out between us, we remained good friends.  
2 She already had her family. And that was before my  
3 son Thiago was born.

4 BY MR. SANDERSON:

5 Q. Mr. Carvajal, previously when you  
6 testified you had said that, no, you'd never had any  
7 sort of relationship like that with Ms. Villegas.  
8 Isn't that right?

9 A. No, I'm clarifying. I haven't had -- I  
10 haven't had a -- I haven't had -- I haven't had a  
11 relationship with her in the sense that I only went  
12 out with her a couple of times. I wouldn't exactly  
13 call that a relationship's because there wasn't really  
14 a relationship. We just went out to eat and to have  
15 something to drink. We tried to get to know one  
16 another. But things didn't work.

17 THE COURT: Ask another question. The  
18 transcript will reveal what he said the first time  
19 around.

20 MR. SANDERSON: I have no more questions,  
21 Your Honor.

22 THE COURT: Mr. Carvajal, this is the  
23 judge. Did you ever have a conversation with Paola  
24 where you discussed seeking political asylum in the  
25 United States together?

1 THE WITNESS: That's false -- Your Honor,  
2 that is false.

3 THE COURT: Did you ever have a  
4 conversation with Paola about her and Thiago seeking  
5 political asylum in the United States?

6 THE WITNESS: Your Honor, that is untrue,  
7 and I never did that, Your Honor.

8 THE COURT: Mr. Carvajal, what is  
9 La oficina?

10 THE WITNESS: To tell you the truth, I  
11 don't really know what Ms. Paola is referring to when  
12 she uses that term. I'm -- I do not know about that.

13 THE COURT: Do you know if Ms. Luz's  
14 husband is a member of any kind of a group or gang?

15 THE WITNESS: That's untrue because I've  
16 been work -- a coworker with Luz Villegas. She tells  
17 me that her husband is a lawyer.

18 THE INTERPRETER: The interpreter thinks  
19 we've gotten cut off.

20 THE COURT: Are you still there,  
21 Mr. Carvajal? Mr. Carvajal, are you still on the  
22 phone?

23 Are you in touch with him, Ms. Fisher?

24 MS. FISHER: I just messaged him,  
25 Your Honor. It looks like there's still one person

1 logged in on the call. Usually it makes a little beep  
2 if it drops off. If you'll give me 20 seconds, I'll  
3 confirm if he's still on.

4 THE COURT: Okay.

5 Mr. Carvajal, are you on the phone?

6 THE WITNESS: I'm here.

7 THE COURT: Okay. You were saying that  
8 Ms. Luz told you that her husband was a lawyer, and  
9 then you were cut off. So can you finish your answer?

10 THE WITNESS: Of course, with pleasure.  
11 I was saying to you, Your Honor, and to the Court that  
12 Luz Villegas told me that her husband is an attorney  
13 and she also is an attorney, and at this point in time  
14 he is in public office. He teaches classes at the  
15 university. That's what she told me. I have no  
16 personal knowledge of this because I'm not in touch  
17 with him.

18 THE COURT: Okay, thank you. All right.  
19 I think we're finished -- we're finished with  
20 testimony. Is there any other surrebuttal from the  
21 petitioner?

22 MS. FISHER: Nothing further, Your Honor.

23 THE COURT: Any surrebuttal from the  
24 respondent?

25 MR. SANDERSON: No, Your Honor.



1 THE COURT: All right. Would you like to  
2 make closing arguments?

3 MS. FISHER: Yes, Your Honor.

4 THE COURT: We're going to take a  
5 15-minute recess and we'll come back for closing  
6 arguments.

7 (Whereupon, a break was taken from  
8 11:35 a.m. to 11:53 a.m.)

9 THE COURT: All right. I'm ready for  
10 argument, Ms. Fisher.

11 MS. FISHER: Thank you, Your Honor, for  
12 the time and attention you've given to this case.

13 THE COURT: Well, thank you. Because I  
14 know you're probably doing this pro bono, am I right?

15 MS. FISHER: Yes, Your Honor.

16 Just briefly, in closing, as you've heard  
17 over the past few days, Mr. Carvajal never consented  
18 to the retention of his son permanently in the  
19 United States. His decision to trust that  
20 Ms. Chambers would return Thiago to Colombia was not  
21 consent. It was simply his decision to trust  
22 Ms. Chambers.

23 Your Honor, I'd like to bring your  
24 attention to a case which I provided a copy of to  
25 opposing counsel for some guidance in this matter.

1     *Koc versus Koc*, I believe. K-o-c versus K-o-c. And I  
2     have a copy for Your Honor today.

3             THE COURT: What circuit is it?

4             MS. FISHER: Eastern District of  
5     New York.

6             THE COURT: Okay. 2001.

7             MS. FISHER: Yes, Your Honor. And this  
8     case establishes several factors to look at to  
9     determine if a child is well-settled in the new  
10    country that they've been brought to. And I think it  
11    provides some relevance for us here today.

12            It looks to the child's age, the  
13    stability of residence in their new environment, and  
14    in particular when looking at stability, the Court  
15    looks on page 154 to the immigration status of the  
16    child and the immigration status of the child's  
17    parents in the new country as to whether or not that's  
18    certain or uncertain.

19            THE COURT: Now, this child was seven  
20    years old.

21            MS. FISHER: Yes, Your Honor. And this  
22    case the child had been retained in the United States  
23    for a two and a half years.

24            This court also looks to whether or not  
25    the child is attending school, which Thiago is not.

1 Looks to whether they're attending church or religious  
2 services, which we've heard no testimony to; the  
3 stability of the abducting parent's employment; and  
4 whether they have friend or relatives in the area.

5 In looking at these sort of comprehensive  
6 factors that the Koc court looked at in 2001, none of  
7 those have been established in this case. So we know  
8 Mr. Carvajal did not consent for his son Thiago to be  
9 here, and he has not proved that he is well-settled  
10 under the case law in prior cases similar to this.

11 As Your Honor well knows, this is not a  
12 domestic case in state court. This is a case about  
13 which jurisdiction is the appropriate venue to  
14 determine questions about the division of custody  
15 between Thiago's parents.

16 So I'd just like to be very clear on the  
17 record that Mr. Carvajal is not attempting to, nor  
18 does he wish to separate Thiago from Thiago's mother.  
19 Rather, the purpose of the Hague Convention and its  
20 application and situation such as these, and  
21 specifically the purpose of Mr. Carvajal's petition  
22 under the Hague Convention, is to ensure that Thiago  
23 has the opportunity to have a relationship with both  
24 his mother and father.

25 That if he is to change his residence to

1 a different country, that it is with the consent of  
2 both parents, not a unilateral decision by one parent.

3 Just logistically, Your Honor, so you  
4 know regarding the priority of Thiago in this case,  
5 our office has been in touch with the US Central  
6 Authority to coordinate a safe return protocol with  
7 the US Department of State if Your Honor determines  
8 that Thiago is to return to Colombia.

9 We've also retained a psychologist,  
10 Debora DeSwano, to assist Thiago in this transition.  
11 And Your Honor, she was an individual present in the  
12 court at the first two hearings.

13 THE COURT: Yes.

14 MS. FISHER: Thiago has a valid passport,  
15 which is in this Court's possession. Mr. Carvajal has  
16 a valid tourism visa that will permit him to return to  
17 the United States to escort Thiago home.

18 Currently, Your Honor, the civil courts  
19 are closed in Colombia between Palm Sunday and Easter,  
20 and he is widely available until April 1, and beyond  
21 April 1 he is still available to return and can  
22 coordinate with family to ensure that, again, if  
23 Your Honor chooses -- or determines that Thiago is to  
24 appropriately return to Colombia, we've made every  
25 effort to make sure that that transition is in

1 Thiago's best interest and to facilitate it for him.

2 Just in conclusion, Your Honor, this case  
3 is about a minor child, that he deserves the  
4 opportunity to grow up having a relationship with both  
5 parents. He is very fortunate, unlike many children,  
6 that he has a mother and a father who desperately want  
7 to have a relationship with him. We simply request  
8 that Your Honor, in looking at the Hague Convention  
9 guidelines, permit that to happen. Thank you.

10 THE COURT: Thank you, Ms. Fisher.

11 Mr. Sanderson.

12 MR. SANDERSON: Thank you, Your Honor.

13 Your Honor, this is not a Hague  
14 Convention case because Thiago's habitual residence is  
15 the United States, and the petitioner has not  
16 established by the preponderance of evidence the  
17 prima facie case that habitual residence is Colombia  
18 and that is his burden.

19 Now, it may be that the petitioner  
20 regrets some of his decisions and actions and regrets  
21 initially intending for the US to be Thiago's home.  
22 But this Court isn't here to fix those problems.

23 Now, there are two tests for habitual  
24 residence which seem like they can be used separately  
25 and in conjunction, the acclimatization test and the

1 settled mutual intent.

2 Now, under either one the respondent has  
3 demonstrated, though it's not her initial burden, but  
4 has demonstrated that the preponderance of the  
5 evidence establishes that the habitual residence is  
6 the United States.

7 Now, Mr. Carvajal did intend from  
8 sometime around at least July 2016 until sometime  
9 around February 2017, for Thiago's home to become the  
10 United States. And in addition to petitioner's other  
11 burden, one of them is to establish the actual date  
12 and time period of wrongful retention, and so far it's  
13 unclear whether it's early February, mid February,  
14 March, like where that line actually is.

15 But the question for habitual residence  
16 does -- is based on the habitual residence at the time  
17 of whenever that retention was.

18 Now, the evidence in this case is  
19 consistent with Ms. Gamba's testimony and the evidence  
20 that she has presented. In addition, her version of  
21 events is also consistent with the evidence submitted  
22 by the petitioner.

23 I would direct the Court, for example, to  
24 the emails that she sent to the Department of State.  
25 They are basically the exact same thing that she

1 testified to in court. She's not had a different  
2 story; whereas, Mr. Carvajal has had different  
3 stories. And his credibility is greatly diminished by  
4 the numerous inconsistencies within his own story, as  
5 well as the inconsistency between him and basically  
6 all of his witnesses, from Diana Vasquez stating that  
7 everyone knew that Ms. Gamba wanted to move to the  
8 United States, and Ana Maria Vasquez testifying that  
9 Thiago slept half of every week at the Carvajal's  
10 house.

11 Then the Western Union money orders and  
12 the clothes he left in the United States and the  
13 emails with Luz Villegas, all of these demonstrate  
14 that he has not been presenting an honest and true  
15 version of the facts; whereas, the Western Union, the  
16 clothes and the other evidence and the fact that there  
17 was no flight purchased for Thiago to fly back in  
18 January.

19 So Mr. Carvajal, who did not have the 200  
20 or so dollars necessary to graduate, was planning to  
21 buy a last-minute ticket around the holiday season for  
22 Thiago to return, changed his mind and then was going  
23 to buy a last-minute ticket in February for him to  
24 return.

25 That argument just doesn't hold water,

1 and it isn't consistent with the facts of this case.  
2 Moreover, Thiago is and was acclimatized to the  
3 United States. His family was here, he was  
4 comfortable here. He had been spending all of his  
5 time at home here. And to him, at that point in his  
6 life at just over two years old, you know, his home  
7 was where his mother was. She was the person who  
8 cared for him.

9           Additionally, he learned to speak English  
10 as his primary language and was already learning it  
11 when Mr. Carvajal visited in December 2016. This  
12 shows that under either the settled mutual intent  
13 test, the acclimatization test or the consideration of  
14 the two of them together, this all establishes that  
15 the habitual residence is the United States and  
16 Mr. Carvajal has not carried his burden to prove by  
17 the preponderance of the evidence otherwise.

18           And then as far as the well-settled issue  
19 that the petitioner raised, we are not arguing the  
20 well-settled defense. It requires a one-year. And  
21 since we don't have a date of retention, it would be  
22 very difficult for us to prove that he'd already been  
23 here for a year in order for that to apply.

24           But we are arguing that Mr. Carvajal  
25 consented to this move; that he brought his son here



1 and just dropped him off; that he left his clothes and  
2 he gave away Ms. Gamba's and Thiago's clothes, which  
3 is not something you do if you're expecting them to  
4 come back.

5 Now, petitioner need not relinquish his  
6 custody rights in order to consent to a permanent  
7 move. Additionally, in their briefs they focused a  
8 lot on his intention for what he was going to do for  
9 himself.

10 This case is not about where Mr. Carvajal  
11 intended himself to live. This case is about where  
12 Thiago was going to live. And the cases for both  
13 habitual residence and consent show that the -- that  
14 six months is plenty of time to acclimatize for both  
15 the intent and for consent that the -- the aggregation  
16 of those facts and once the move is made, that that is  
17 enough to establish them. In particular, I would  
18 point the Court to *Feder versus Evans Feder*, which is  
19 from the Third Circuit.

20 THE COURT: I'm sorry, which case?

21 MR. SANDERSON: Feder.

22 THE COURT: How do you spell it?

23 MR. SANDERSON: F-e-d-e-r v Evans,  
24 E-v-a-n-s, Feder, and that's 63 F.3d 217 at page 224.  
25 And that's the Third Circuit from 1995. And there the

1 Third Circuit specifically rejected the argument, this  
2 was with shared intent, but that intent can be  
3 contingent on whether the married couple in that case  
4 stayed together. And there the fact that the mother  
5 believed that she was going to leave a foreign country  
6 if her marriage did not improve did not void the  
7 couple's settled purpose as far as the child.

8 So whether settled intent or in consent,  
9 the place for Thiago to live and have his custody case  
10 is here. This is the appropriate venue,  
11 United States, the appropriate venue for him to -- you  
12 know, for Mr. Carvajal and Ms. Gamba to contest the  
13 custody rights because this was the intended home.

14 And once Thiago came to the  
15 United States, he crossed the line where there was  
16 settled mutual intent and then there was action. And  
17 the combined effect makes this his home.

18 Given that this is Thiago's home, has  
19 been Thiago's home and the facts show that the  
20 respondent has been consistent in her testimony  
21 whereas, Mr. Carvajal has not provided a credible  
22 version of events, simply a variety of versions of  
23 events from which the Court can choose from, the  
24 respondent requests that the Court determine that the  
25 habitual residence for Thiago is the United States.

1 THE COURT: Thank you. Any brief  
2 rebuttal? You don't have to rebut.

3 MS. FISHER: No, Your Honor.

4 THE COURT: Okay.

5 MS. FISHER: I think we've said all that  
6 we need to say by this point.

7 THE COURT: Okay. I think you have too.

8 I'm going to ask you to go through the  
9 exhibits with Ms. Sawyer and make sure that they are  
10 all here and that you haven't inadvertently left them  
11 up here or taken them back to your desks. So I'm  
12 going to ask you before you leave to make sure that  
13 she's got all of the exhibits.

14 Thank you. I know -- Mr. Sanderson, I  
15 think you're doing this pro bono too, aren't you?

16 MR. SANDERSON: A little bit for the  
17 immigration case.

18 THE COURT: Okay. At any rate, you both  
19 have put your heart and souls into it. It's a very  
20 difficult case, it's a very sad case, but I want to  
21 thank you both for your good advocacy and all the time  
22 that you have put in in presenting your side to the  
23 Court.

24 And we will try to make a decision  
25 promptly. But I do feel that I need to write an

1 opinion in this case, and we will get that done as  
2 soon as we can.

3 All right. We're in recess.

4 (Which were all of the proceedings had in  
5 the above-captioned cause on the above-captioned  
6 date.)  
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**REPORTER'S CERTIFICATE PAGE**

I, Roxann Harkins, Official Court Reporter  
for the United States District Court for the Middle  
District of Tennessee, in Nashville, do hereby  
certify:

That I reported on the stenographic machine  
the proceedings held in open court on March 27, 2018,  
in the matter of EDISON ALBERTO CARVAJAL VASQUEZ v.  
PAOLA ANDREA GAMBA ACEVEDO, Case No. 3:18-cv-0137;  
that said proceedings were reduced to typewritten form  
by me; and that the foregoing transcript is a true and  
accurate transcript of said proceedings.

This is the 12th day of July, 2018.

s/ Roxann Harkins\_\_\_\_\_  
ROXANN HARKINS, RPR, CRR  
Official Court Reporter